

179721

**WILLOUGHBY & HOEFER, P.A.**

ATTORNEYS & COUNSELORS AT LAW

930 RICHLAND STREET

P.O. BOX 8416

COLUMBIA, SOUTH CAROLINA 29202-8416

MITCHELL M. WILLOUGHBY  
JOHN M.S. HOEFER  
ELIZABETH ZECK\*  
PAIGE J. GOSSETT  
RANDOLPH R. LOWELL  
K. CHAD BURGESS  
NOAH M. HICKS II\*\*  
M. McMULLEN TAYLOR  
BENJAMIN P. MUSTIAN

AREA CODE 803  
TELEPHONE 252-3300  
TELECOPIER 256-8062

May 24, 2006

\*ALSO ADMITTED IN TX  
\*\*ALSO ADMITTED IN VA

**VIA FIRST-CLASS MAIL**

The Honorable Charles L.A. Terreni  
Chief Clerk/Administrator  
**Public Service Commission of South Carolina**  
101 Executive Center Drive  
Columbia, South Carolina 29210

SO 101 EXECUTIVE CENTER DRIVE  
COLUMBIA, SC 29210  
2006 JUL 25 PM 12:33  
RECEIVED

RE: Application of United Utility Companies, Inc. for adjustment of rates and charges and modifications to certain terms and conditions for the provision of water and sewer service; Docket No. 2006-107-WS

Dear Mr. Terreni:

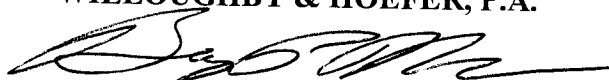
Enclosed for filing please find the original and ten (10) copies of Applicant's Answer to Petition to Intervene of North Greenville University and Motion to Dismiss a Portion of Petition to Intervene and to Limit the Scope of Intervention in the above-referenced matter.

By copy of this letter, I am serving counsel for all parties of record with a copy of same and enclose a certificate of service to that effect.

I would appreciate your acknowledging receipt of this document by date-stamping the extra copy that is enclosed and returning it to me via the enclosed, self-addressed envelope. If you have any questions or if you need any additional information, please do not hesitate to contact us.

Sincerely,

**WILLOUGHBY & HOEFER, P.A.**



Benjamin P. Mustian

BPM/amw

Enclosures

cc: Shannon B. Hudson, Esquire  
Nanette S. Edwards, Esquire  
Duke K. McCall, Jr., Esquire  
Newton Horr  
Jacqueline H. Patterson, Esquire

**BEFORE**  
**THE PUBLIC SERVICE COMMISSION OF**  
**SOUTH CAROLINA**  
**DOCKET NO. 2006-107-WS**

SC PUBLIC SERVICE COMMISSION  
APR 25 11:12:33  
P. 107-WS

IN RE:

Application of United Utility Companies,  
Inc. for adjustment of rates and charges  
and modifications to certain terms  
and conditions for the provision of  
water and sewer service.

**CERTIFICATE OF SERVICE**

This is to certify that I have caused to be served this day one (1) copy of **Applicant's Answer to Petition to Intervene of North Greenville University and Motion to Dismiss a Portion of Petition to Intervene and to Limit the Scope of Intervention** by placing same in the care and custody of the United States Postal Service with first class postage affixed thereto and addressed as follows:

Shannon B. Hudson, Esquire  
Nanette S. Edwards, Esquire  
**Office of Regulatory Staff**  
1441 Main Street, 3rd Floor  
Columbia, South Carolina 29201

Duke K. McCall, Jr. Esquire  
**Leatherwood Walker Todd & Mann, P.C.**  
Post Office Box 87  
Greenville, SC 29602

Jacqueline H. Patterson, Esquire  
**Patterson & Coker, P.A.**  
1225 South Church Street  
Greenville, SC 292605

Newton Horr  
131 Greybridge Road  
Pelzer, SC 29669

Andrea M Wright  
Andrea M. Wright

Columbia, South Carolina  
This 24<sup>th</sup> day of May, 2006.

**BEFORE**  
**THE PUBLIC SERVICE COMMISSION OF**  
**SOUTH CAROLINA**

**DOCKET NO. 2006-107-W/S**

IN RE:

Application of United Utility Companies,  
Inc. for adjustment of rates and charges  
and modification to certain terms  
and conditions for the provision of  
water and sewer service.

**ANSWER OF UUC TO PETITION TO  
INTERVENE OF NORTH  
GREENVILLE UNIVERSITY**

SC PUBLIC SERVICE COMMISSION  
2006 MAY 25 PM 2:33  
FILED

Applicant, United Utility Companies, Inc. ("UUC" or "Company"), pursuant to 26 S.C. Code Ann. Regs. R. 103-837 (1976), hereby answers the allegations contained in the May 4, 2006, Petition to Intervene of North Greenville University ("Petition") filed with the Commission in the above-captioned matter as follows:

**ANSWER**

**FOR A FIRST DEFENSE**

1. Each and every allegation of the Petition not hereinafter specifically admitted is denied.

**FOR A SECOND DEFENSE**

2. UUC admits the allegations of Paragraph 1 of the Petition upon information and belief.

3. Concerning the allegations of Paragraph 2, to the extent that North Greenville College currently holds itself out as North Greenville University and to the extent that NGU has succeeded to

the rights, duties and obligations of North Greenville College, UUC admits entering into an agreement with Greenville Timberline SC, LLC and NGU which, inter alia, provided for the conveyance of a wastewater treatment plant in Tigerville, South Carolina to UUC. To the extent that Paragraph 2 asserts that the rates proposed by UUC in the instant docket apply only to the property relevant to the wastewater treatment plant in Tigerville, the same is denied. The proposed rates bear upon the water and wastewater customers of UUC in all areas in South Carolina in which UUC operates.

4. UUC is without sufficient information to form a belief as the truth or falsity of the allegations of Paragraph 3 of the Petition relating to NGU asserting it is that largest customer of UUC in Greenville, South Carolina and therefore denies same and demands strict proof. UUC denies the remaining portion of Paragraph 3 to the extent that it alleges that the status of a customer in regards to its size or consumption grants any enhanced or increased interest in the rate increases charged by UUC.

5. UUC admits the allegations of Paragraph 4 in so much as NGU should be permitted to intervene based upon its status solely as a customer of UUC. UUC denies the remaining portion of Paragraph 4 to the extent that it alleges that NGU's purported status as the largest customer of UUC and as a former owner of the wastewater treatment plant affords it any rights to intervene in this matter.

6. UUC lacks sufficient information to form a belief as to the truth or falsity of the allegations of Paragraph 5 relating the valuation of the wastewater treatment plant at the time of conveyance to UUC and, therefore, denies same and demands strict proof. UUC denies the remaining allegations of Paragraph 5 as they are inconsistent with the terms of Exhibit "A" to the

Petition, paragraph 7 and Commission in Order No. 2004-253 (dated May 19, 2004) in Docket No. 2000-210-W/S. To the extent that any allegation in this paragraph remains unanswered, the same is denied and UUC craves reference to the July 9, 2001 contract between it and NGU for the pertinent terms and conditions of same.

7. UUC admits the allegations of Paragraph 6 of the Petition inasmuch as it asserts that the Commission authorized the imposition of a new rate schedule. The Commission, in Order No. 2002-214 (issued March 22, 2002) in Docket No. 2000-210-WS authorized UUC to implement a new rate schedule. Thereafter, UUC petitioned for a reconsideration of said order and requested authorization to put the rates requested in its application into effect under bond. The Commission granted this request in Order No. 2002-494 and, UUC thereafter placed the increased rates into effect.

8. Concerning the allegations of Paragraph 7 stating that the Commission must balance competing interests of the financial integrity of utilities and the consumer, UUC asserts S.C. Code Ann. § 58-5-240(B) requires the Commission to hold a public hearing on the lawfulness or reasonableness of the proposed changes in rates. UUC further states that the Office of Regulatory Staff, as a statutorily designated party of record in proceedings before the Commission, has the responsibility to represent the public interest including 1) balancing the concerns of the using and consuming public with respect to public utility services class of customer (2) economic development and job attraction and retention in South Carolina; and (3) preservation of the financial integrity of the state's public utilities, pursuant to S.C. Code Ann. 58-4-10(B). UUC denies that the proposed rates are a "shock" rate to its customers.

9. To the extent that NGU references Order No. 2002-214 (issued March 22, 2002) in Docket No. 2000-210-WS, UUC admits the allegations of Paragraph 8 that the Commission approved a return on rate base of 4.39%. UUC denies the remainder of Paragraph 8 which suggests that 4.39% is the currently authorized return on rate base for UUC and affirmatively submits that the Company is authorized by Commission Order No. 2004-254 a rate of return on rate base of 9.31% and that it is currently earning below its authorized return on rate base.

10. UUC denies the allegations of Paragraph 9. Further responding, UUC submits that these allegation are in direct conflict with a prior determination of the Commission in Order No. 2004-253 (dated May 19, 2004) in Docket No. 2000-210-W/S.

11. UUC denies the allegations of Paragraph 10 relating to the agreement with NGU and states that these allegations have been previously decided adversely to NGU by the Commission in Order No. 2004-253 (dated May 19, 2004) in Docket No. 2000-210-W/S. UUC also denies that the proposed rates will cause harm to NGU's economic viability and demands strict proof thereof.

12. Paragraph 11 does not appear to require a response from UUC; however, to the extent that these sentences can be read to require a response, same are denied. UUC would further note that these modifications have been accepted by the Commission in other dockets involving other public utilities as being consistent with the statute law of South Carolina.

13. The allegations contained in the first sentence of Paragraph 12 do not appear to require a response from UUC; however, to the extent that this sentence can be read to require a response, same is denied. UUC denies that the proposed rates will work an undue hardship on NGU and the other customers of UUC. UUC admits that the Commission is responsible to hold a public

hearing on the lawfulness and reasonableness of the proposed rates and to determine the same. UUC denies that the proposed rates are neither fair nor reasonable.

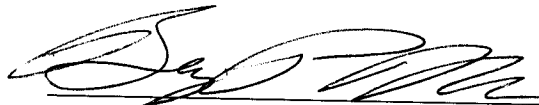
FOR A FIRST AFFIRMATIVE DEFENSE

13. Pursuant to Rule 12(c) SCRC, UUC is entitled to judgment on the pleadings given that the allegations of the Petition are so defectively drawn in view of the plain language of Exhibit "A" thereto that the Petition fails to state a claim under law.

FOR A SECOND AFFIRMATIVE DEFENSE

14. The allegations contained in NGU's Petition are subject to the doctrine of *res judicata* and should be stricken as impermissibly attempting to relitigate an issue adjudicated by the Commission in a prior matter.

WHEREFORE, having fully set forth its Answer, UUC requests that the Commission issue an order in response to the Petition of NGU that is consistent with the foregoing.



John M.S. Hoefer  
Benjamin P. Mustian  
**WILLOUGHBY & HOEFER, P.A.**  
Post Office Box 8416  
Columbia, South Carolina 29202-8416  
803-252-3300  
Attorneys for Applicant

Columbia, South Carolina  
This 24<sup>th</sup> day of May, 2006